

MAIL STOP 105
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Our File: BURSHOFFER 3.0-003 Group Art Unit:

Applicant: BURSHOFFER

Serial No.: 10/781,054

Examiner:

Filed: 02/18/04

For: PAINT EDGER

Batch No.:

Dear Sir:

Enclosed for filing in the United States Patent and Trademark Office is the following:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Law Firm Transmittal Letter +copy | <input type="checkbox"/> Letter/Official Draftsmen |
| <input type="checkbox"/> Response/Amendment | <input type="checkbox"/> Petition |
| <input type="checkbox"/> Affidavit/Declaration | <input type="checkbox"/> Request for Ext. of Time |
| <input type="checkbox"/> Notice of Appeal | <input type="checkbox"/> Small Entity Statement(s) |
| <input type="checkbox"/> Assignment and cover sheet | <input checked="" type="checkbox"/> Postcard acknowledging receipt of above-identified material |
| <input type="checkbox"/> Certificate of Correction | |
| <input type="checkbox"/> Check No. _____ - \$ _____ | |
| <input type="checkbox"/> Claim of Priority - Cert'd Copies | |
| <input type="checkbox"/> Communication | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Drawings _____ sheets - | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Formal/Informal | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Issue Fee/Maintenance Fee | <input type="checkbox"/> _____ |
| <input checked="" type="checkbox"/> Information Disclosure Statement; Reference, Tabs -7 | |

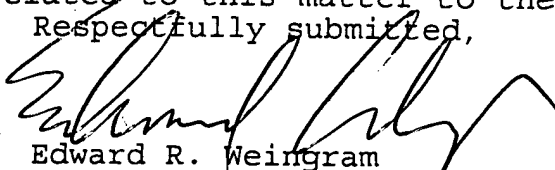
Conditional Petition and Fee for Extension of Time: If any extension of time for the accompanying response is required, applicant requests that this be considered a petition therefor.

In connection with the above-identified matter, please charge any additional fees or any other charges related to this matter to the deposit account of the writer, No. 23-0812.

Respectfully submitted,

Enclosures

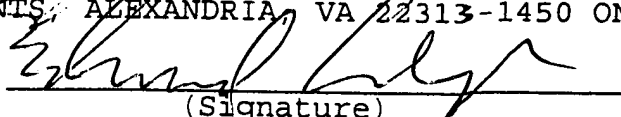
DATED: 3-10-04


Edward R. Weingram
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TEL: (201) 843-6300
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I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS, ALEXANDRIA, VA 22313-1450 ON

DATE: 3-10-04

PTFORMS\PTOCVRLT1.ERW


(Signature)



TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
(Under 37 CFR 1.97(b) or 1.97(c))

Docket No.
BURGHOFFER 3.0-003

In Re Application Of:

James Burghoffer

Serial No.
10/781,054

Filing Date
02/18/04

Examiner

Group Art Unit

Title:

PAINT EDGER

Address to:

**Assistant Commissioner for Patents
Washington, D.C. 20231**

37 CFR 1.97(b)

1. ☒ The Information Disclosure Statement submitted herewith is being filed within three months of the filing of a national application; within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; or before the mailing date of a first Office Action on the merits, whichever event occurs last.

37 CFR 1.97(c)

2. ☐ The Information Disclosure Statement submitted herewith is being filed after three months of the filing of a national application, or the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; or after the mailing date of a first Office Action on the merits, whichever occurred last but before the mailing date of either:

1. a Final Action under 37 CFR 1.113, or
2. a Notice of Allowance under 37 CFR 1.311,

whichever occurs first.

Also submitted herewith is:

- ☐ a certification as specified in 37 CFR 1.97(e);

OR

- ☐ the fee set forth in 37 CFR 1.17(p) for submission of an Information Disclosure Statement under 37 CFR 1.97(c).



Practitioner's Docket No. BURGHOFFER 3.0-003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of _____
Inventor(s)

for _____
Title of invention

OR

In re application of: James Burghoffer

Application No.: 0 10/ 781,054

Group Art Unit:

Filed: Feb. 18, 2004

Examiner:

For: PAINT EDGER

Assistant Commissioner for Patents
Washington, D.C. 20231

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
WITHIN THREE MONTHS OF FILING OR
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is *optional*.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Date: 3/1/04

Signature

Edward R. Weingram

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [6-3]—page 1 of 3)

NOTE: 37 C.F.R. 1.98(b):

- (1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.
- (2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.
- (3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.
- (4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.
- (5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

WARNING: No extension of time can be had under 37 C.F.R. § 1.136 (a) or (b) for filing an IDS. 37 C.F.R. § 1.97(f).

NOTE: The "filing date of a national application" under 37 C.F.R. § 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 C.F.R. § 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 C.F.R. § 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. § 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

NOTE: "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39). See also § 609, M.P.E.P., 8th Edition.

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed (sic) to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office
Action [6-3]—page 2 of 3)

Practitioner's Docket No. BURGHOFFER 3.0-003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of _____

Inventor(s)

for _____

Title of invention

the specification of which is being transmitted herewith

OR

In re application of: James Burghoffer

Application No.: 0 10/781,054 Group No.:

Filed: Feb. 18, 2004

Examiner:

For: PAINT EDGER

Assistant Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Date: 3/10/04

Signature

Edward R. Weingram

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Information Disclosure Statement [6-1]—page 1 of _____)

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing date of a first Office action on the merits; or

(4) Before the mailing date of a first Office action after the filing of a request for continued examination under § 1.114."

37 C.F.R. § 1.97(b).

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. § 1.56(a).

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) each inventor named in the application;

(2) each attorney or agent who prepares or prosecutes the application; and

(3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. § 1.56(c).

NOTE: The "duty as described in § 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13 -25 at 17.

WARNING: "No information disclosure statement may be filed in a provisional application." 37 C.F.R. § 1.51(d).

List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: discard unused sections
and number pages consecutively)

1. ☒ Preliminary Statements
2. ☒ FORMS PTO/SB/08A and 08B (formerly FORM PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited
and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
 - 7A. ☐ EPO Search Report
 - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections _____, respectively, have been continued on ADDED PAGE(S).

NOTE: "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

(Information Disclosure Statement [6-1]—page 2 of _____)

Section 1. Preliminary statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. § 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability (37 C.F.R. § 1.97(h)), or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

Section 2. Forms PTO/SB/08A and 08B (formerly Form PTO-1449)

NOTE: With respect to the list required by paragraph (b) of 37 C.F.R. § 1.98, the Notice of April 20, 1992 (1138 O.G. 37-41) points out that:

"The list may not be incorporated into the specification but must be submitted in a separate paper. A separate list is required so that it is easy to confirm that applicant intends to submit an information disclosure statement, and because it provides a readily available checklist for the examiner to indicate which identified documents have been considered. A copy of a separate list will also provide a simple means of communication to applicant to indicate the listed documents that have been considered and those listed documents that have not been considered. Use of form PTO-1449, "Information Disclosure Citation, is encouraged."

See also § 609, M.P.E.P., 8th Edition.

NOTE: "An information disclosure statement may include two list[s] (and two certifications)) . . . in situations where some of the information listed was cited in a communication from a foreign patent office not more than three months prior to filing the statement and some was not, but was not known more than three months prior to filing the statement." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

See also § 609, M.P.E.P., 8th Edition.

NOTE: With respect to the examiner's consideration of the Information Disclosure Statement, the Notice of April 20, 1992 (1138 O.G. 37-41) states:

"If information is listed in the specification rather than in a separate paper, or if the other content requirements *** are not complied with, the examiner will notify applicant in the next Office action that the information has not been considered. It should be noted, however, that no copy of a U.S. patent application is required to be submitted. ***

"Examiners must consider all citations submitted in conformance with the rules and this section and place their initials adjacent [sic] the citations on a list or in the boxes provided on a form PTO-1449. If the citations are submitted on a list other than a form PTO-1449, the examiner may write "all considered" and his or her initials to indicate that all citations have been considered. If any of the citations are considered, a copy of the submitted list or form, as reviewed by the examiner, will be returned to the applicant with the next communication. The original copy of the form will be entered into the application file. The copy returned to applicant will serve both as acknowledgement of receipt of the information disclosure statement and as an indication that the references were considered by the examiner. Forms PTO-326 and PTOL-37 include a box to indicate the attachment of form PTO-1449.

"Information which complies with requirements as discussed in this section but which is in a non-English language will be considered in view of the concise explanation submitted *** and insofar as it is understood on its face, e.g., drawings, chemical formulas, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches. The examiner need not have the information translated unless it appears to be necessary to do so. *** The examiner should not require that a translation be filed by applicant. The examiner should not make any comment such as that the non-English language information has only been considered to the extent understood, since this fact is inherent.

"Since information is required to be listed in a separate paper rather than in the specification, there is no need to mark "All checked" or "Checked" in the margin of a specification containing citations.

"If a statement fails to comply with the requirements as discussed in this section for an item of information, a line should be drawn through the citation to show that it has not been considered. The other items of information listed that do comply with the rules and this section will be considered by the examiner and will be appropriately initialed.

* * * * *

"A citation listed on form PTO-1449 and considered by the examiner in accordance with this section will be printed on the patent. A citation listed in a separate paper, equivalent to but not on form PTO-1449, and considered by the examiner in accordance with this section will be printed on the patent if the list is on a separate sheet which is clearly identified as an information disclosure statement and the list lends itself to easy capture of the necessary information by the Office printing contractor, i.e., each item of information is listed on a single line, the lines are at least double-spaced from each other, the information is uniform in format for each listed item, the list includes a column for the examiner's initials to indicate that the information was considered. If a citation is not printed on the patent but has been considered by the examiner in accordance with this section, the patented file will reflect that fact . . . "

(Information Disclosure Statement — Section 2. FORMS PTO/SB/08A and 08B [6-1]
— page 4 of _____)

Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. § 1.98(a)(2) requires that any information disclosure statement filed under § 1.97 shall include:
"A legible copy of:

- (i) Each U.S. patent application publication and U.S. and foreign patent;
- (ii) Each publication or that portion which caused it to be listed;
- (iii) For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion. . ."

Legible copies of all items listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

- ☐ Exception(s) to above:
- ☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.
 - ☐ Cumulative patents or publications identified in Section 5.

(Information Disclosure Statement—Section 6. Copies of Listed Information Items Accompanying
This Statement [6-1]—page 10 of ____)

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this statement is

(check each applicable item)

- (a) ☒ the inventor(s) who signs below

James Burghoffer
SIGNATURE OF INVENTOR

James Burghoffer
(type name of inventor who is signing)

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. § 1.56(c))

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (c) ☐ the practitioner who signs below on the basis of the information:

(check each applicable item)

- ☐ supplied by the inventor(s).
☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. § 1.56(c))
☐ in the practitioner's file.

SIGNATURE OF PRACTITIONER

(type or print name of practitioner)

Reg. No.:

Tel. No.: ()

Customer No.:

P.O. Address

(Information Disclosure Statement—Section 10. Identification of Person(s) Making This Information Disclosure Statement [6-1]—page 16 of ____)

INFORMATION DISCLOSURE CITATION (Use several sheets if necessary)

(Use several sheets if necessary)

MAR 15 2004

ATTY DOCKET NO.

BURGHOFFER 3.0-003

SERIAL NO.

10/781,054

FILING

GROUP

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,933,905	08/10/99	Hess			
	5,432,972	07/18/95	Polzin et al			
	5,293,662	03/15/94	Newman, Sr. et al.			
	5,267,369	12/07/93	O'Neil et al.			
	5,134,745	08/04/92	Burns, et al			
	4,852,203	08/01/89	La Belle			
	3,981,595	09/21/76	Blake			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.